

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

TERESA A. PAWLOWSKI,	)	CIV. 11-5065-JLV
	)	
Plaintiff,	)	
	)	ORDER ALLOWING
vs.	)	LIMITED DISCOVERY
	)	
MARLOW L. SCHERBENSKE,	)	
individually, and KDT	)	
ENTERPRISES, INC., d/b/a	)	
WEATHERED VANE,	)	
	)	
Defendants.	)	

The parties filed a form 52 report and scheduling information.

(Docket 11). The report identifies a potential jurisdiction issue. Id. ¶ 5.

Federal jurisdiction for an employee disability discrimination claim under 42 U.S.C. § 12112 requires that the employer have “15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year . . . .” 42 U.S.C. § 12111(5)(A). “Federal courts are courts of limited jurisdiction.” Godfrey v. Pulitzer Publishing Company, 161 F.3d 1137, 1141 (8th Cir. 1998). “[J]urisdiction [must] be established as a threshold matter . . . .” Steel Company v. Citizens for a Better Enviornment, 523 U.S. 83, 94 (1998) (internal quotation marks omitted). The court communicated informally with counsel about this issue. Accordingly, it is hereby

ORDERED that discovery be limited to determining jurisdiction; that is, whether defendant KDT Enterprises, Inc., d/b/a Weathered Vane, was a qualified employer under 42 U.S.C. § 12111(5)(A).

IT IS FURTHER ORDERED that jurisdictional discovery shall be completed on or before **November 30, 2011**.

IT IS FURTHER ORDERED that counsel shall file simultaneous briefs on the jurisdictional issue on **December 12, 2011**.

IT IS FURTHER ORDERED that all other discovery is suspended pending resolution of this jurisdictional issue.

Dated October 27, 2011.

BY THE COURT:

/s/ Jeffrey L. Viken  
JEFFREY L. VIKEN  
UNITED STATES DISTRICT JUDGE